



UNIVERSITY OF TORONTO  
FACULTY OF LAW

BORA LASKIN LAW LIBRARY



31761 061042248

## Children and the Law

Winter 2011  
Volume II

Prof. Carol Rogerson  
Faculty of Law University of Toronto

*These materials are based in part on those compiled by L. Ferguson for Children and the Law, University of Alberta, Faculty of Law, Fall 2005.*

*Not to be considered as published. For the sole educational use of students at the Faculty of Law, University of Toronto*





UNIVERSITY OF TORONTO  
FACULTY OF LAW

## Children and the Law

Winter 2011  
Volume II

**Prof. Carol Rogerson**  
**Faculty of Law University of Toronto**

*These materials are based in part on those compiled by L. Ferguson for Children and the Law, University of Alberta, Faculty of Law, Fall 2005.*

*Not to be considered as published. For the sole educational use of students at the Faculty of Law, University of Toronto*



Digitized by the Internet Archive  
in 2018 with funding from  
University of Toronto

[https://archive.org/details/childrenlaw02roge\\_3](https://archive.org/details/childrenlaw02roge_3)

## TABLE OF CONTENTS

<b>WEEK FIVE: ADOPTION AND THE SIGNIFICANCE OF BIOLOGICAL PARENTAGE .....</b>	<b>309</b>
<b>    5.1 Biological Parenthood: Rights of Children and Rights of Parents.....</b>	<b>310</b>
U.N. Convention on the Rights of the Child.....	310
Katherine O' Donovan, "Interpretations of Children's Identity Rights" .....	311
David Archard, "Children, Families, and the State" .....	315
<b>    5.2 The Legal Framework of Parenthood.....</b>	<b>323</b>
Children's Law Reform Act, Parts I and II.....	323
Divorce Act. ss. 2(1), (2), definition of "child of the marriage" .....	325
Family Law Act, s. 1(1), definitions of "child" and "parent" .....	326
<b>    5.3 Determining Who is a Parent: The Status of Unmarried Fathers.....</b>	<b>327</b>
Vital Statistics Act, "Registration of Births", ss. 8-14 .....	327
Regulations under the Vital Statistics Act, "Registration of Births" .....	328
Child and Family Services Act, s. 137(1) .....	329
Re A.H., C.E.S. and J.M.S.; Attorney General of Ontario v. Nevins Prov. J. et. al.....	330
Trociuk v. British Columbia (Attorney General) .....	333
Aziz v. Dolomont.....	340
<b>    5.4 Adoption .....</b>	<b>348</b>
<b>        5.4.1 Overview.....</b>	<b>348</b>
Child and Family Services Act, Part VII (Adoption).....	348
Vital Statistics Act, s. 28, Registration of Adoption Orders .....	354
Nicholas Bala and Susan Miklas, "Adoption: Introduction" .....	355
<b>        5.4.2 Withdrawing/Dispensing with Consent: Biological vs. Psychological Parenthood .....</b>	<b>362</b>
King v. Low .....	362
Martin Guggenheim, "Getting and Losing Parental Rights: The "Baby Jessica" Case" .....	370
Hendricks v. Swan .....	378
Re M. (D.M.) .....	392
<b>        5.4.3 Access After Adoption.....</b>	<b>398</b>
Nancy Goldhill, "Ties that Bind: The Impact of Psychological and Legal Debates on the Child Welfare System" .....	398
Child and Family Services Act, Part VII (provisions re "openness" agreements and orders) .....	401
Press Release, June 6, 2005: McGuinty Government To Make Adoption Possible For More Children.....	404
R. (S.) v. R. (M.) .....	405
<b>        5.4.4 Disclosure and Confidentiality of Adoption Records .....</b>	<b>409</b>
Shirley Senoff, "Open Adoptions in Ontario and the Need for Legislative Reform" .....	409
Note: The Adoption Information Disclosure Act, 2005, S.O. 2005, c. 25 .....	416
Cheskes v. Ontario (Attorney General).....	416
Note: The Access to Adoption Records Act, 2008, S.O. 2008, c. 5.....	434
<b>WEEK SIX: PARENTHOOD IN NEW FAMILY CONTEXTS .....</b>	<b>435</b>
<b>    6.1 Children Born as a Result of Gamete Donation: Sorting out Parenthood .....</b>	<b>436</b>
L. (T.D.) v. L. (L.R.) [Low v. Low].....	436
"Controversy over Sperm-Donor Anonymity" Maclean's, May 20, 2002.....	441

Suit Seeks Identities of Sperm, Egg Donors; Confidentiality vs. Offsprings' Rights, National Post, October 30, 2008 .....	446
Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations with Respect to the Rights of Children , Chapter 10, "Adoption and Identity" .....	448
A. (A.) v. B. (B.) .....	451
<b>6.2 Third-Party Access: Expanding the Network of Significant Adults in Children's Lives Beyond Parents .....</b>	<b>458</b>
S. (G.E.) v. C. (D.L.).....	458
Chapman v. Chapman.....	468
<b>WEEK SEVEN: CHILD PROTECTION I.....</b>	<b>471</b>
<b>7.1 Parental Autonomy and Children's Rights to Protection .....</b>	<b>472</b>
Convention on the Rights of the Child, Articles 3, 6, 9 19, 20, 25 .....	472
David Archard, "Children, Family and the State" .....	473
B.(R.) v. Children's Aid Society of Metropolitan Toronto .....	483
Nicholas Bala, "Child Welfare Law in Canada: An Introduction" .....	483
<b>7.2 Child Abuse: Definitions and Incidence .....</b>	<b>489</b>
M.D.A. Freeman, "Children Who Are Wronged: The Problem of Abuse and Neglect" .....	489
Canadian Incidence Study of Reported Child Abuse and Neglect- 2003: Executive Summary .....	493
<b>7.3 The Criminal Response to Child Abuse: The Example of Corporal Punishment.....</b>	<b>495</b>
Shelley Hallett and Nicholas Bala, "Criminal Prosecutions for Abuse and Neglect" .....	495
Criminal Code, sections 265 and 43 .....	497
Convention on the Rights of the Child, Articles 19, 28, 37 .....	498
Peter Newell, "Ending Corporal Punishment of Children" .....	499
"Loving, sober' parents can spank, expert tells gathering: Other specialist likens the practice to assault", National Post, June 7, 1999.....	507
"It Hurts You Inside- Children Talking about Smacking: The Views of Five to Seven Year-Old Children in the UK" .....	509
"It doesn't solve anything - A report on the views of children and young people about the use of physical punishment" .....	512
Note: Corporal Punishment under the European Social Charter.....	515
U. N. Committee on the Rights of the Child: Concluding Observations: Canada, October 27, 2003.....	517
Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General).....	517
Note: New Zealand Crimes (Substituted Section 59) Amendment Act 2007 .....	550
R. v. D.K.....	551
R. v. Ma .....	554
<b>WEEK EIGHT: CHILD PROTECTION II: CHILD ABUSE AND NEGLECT .....</b>	<b>560</b>
<b>8.1 Overview of Child Welfare Legislation.....</b>	<b>561</b>
Convention on the Rights of the Child, Articles 3, 5, 9, 12, 16, 18, 19, 20, 39 .....	561
"Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations with Respect to the Rights of Children", Ch. 9, "Child Protection Issues" [footnotes omitted] .....	562
Child and Family Services Act, Part III, Child Protection.....	565
Nicholas Bala, "Child Welfare Law in Canada: An Introduction" .....	579
New Brunswick (Minister of Health and Community Services) v. G.(J.).....	586
<b>8.2 Investigation and Apprehension.....</b>	<b>596</b>
Winnipeg Child and Family Services v. K.L.W. .....	596

<b>8.3 The Protection Hearing: Finding a Child in Need of Protection and Appropriate Disposition.....</b>	<b>611</b>
Michael Bernstein and Kristina Reitmeier, "The Child Protection Hearing" .....	611
Children's Aid Society Ottawa-Carleton v. T.....	617
Children's Aid Society of Ottawa-Carleton v. J.A.....	622
Family and Children's Services of Cumberland County v. H.L.L.....	632
<b>8.3 Status Review .....</b>	<b>639</b>
Catholic Children's Aid Society of Metropolitan Toronto v. C.M. ....	639
C. v. Children's Aid Society of Ottawa-Carleton .....	650

